

Message Text

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ACTION SNM-05

INFO OCT-01 NEA-10 ISO-00 CA-01 L-03 SCS-06 PPTE-00
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FM AMEMBASSY TUNIS
TO SECSTATE WASHDC 2184

UNCLAS SECTION 1 OF 2 TUNIS 5800

E.O. 11652: N/A
TAGS: SNAR, TS
SUBJ: NARCOTICS LAW

REF: (A) STATE 170187 (B) 77 TUNIS 4787, (C) STATE 203321

FOLLOWING ANSWERS ARE KEYED TO REFTEL (A) QUESTIONS.

1. INTRODUCTION TO REPORT. UNDER TUNISIAN LAW A
DRUG VIOLATION IS CONSIDERED A PETTY CRIMINAL OFFENSE
AND IT COMES UNDER THE JURISDICTION OF A LOWER COURT
(CORRECTIONAL COURT) WHERE THE PENALTY IS A MAXIMUM OF
FIVE YEARS AND/OR A MAXIMUM OF EQUIVALENT OF \$2,400
SERIOUS CRIMINAL OFFENSES (.74\$34, TREASON) ARE TRIED
IN A CRIMINAL COURT WHERE THE MAXIMUM PENALTY IS DEATH.
MAXIMUM FINE IS NOT LIMITED.

2. FOLLOWING IS REPORT.

(1) POSSESSION

(A) NO.

(B) NO, THERE IS NO QUALIFYING AMOUNT.
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(C) (1) AND (2): PENALTIES REGARDLESS OF THE AMOUNT OF
THE SUBSTANCE INVOLVED WOULD THEORETICALLY BE THE SAME
IN ALL CASES.

(3) JUDICIAL DISCRETION IS GENERALLY APPLIED DEPENDING
ON CIRCUMSTANCES OF THE CASE, I.E. ANTECEDENTS OF PERSON

UNDER DETENTION, THE INTENDED USE, AND THE AMOUNT OF
SUBSTANCE SEIZED.

(2) TRAFFICKING:

(A) NO. IN CASES OF SMUGGLING, THE TUNISIAN CUSTOMS
LAWS MAY ALSO BE APPLIED IN ADDITION TO DRUG LAWS. THESE
LAWS MAY IMPOSE SEVERAL SENTENCES AND PERHAPS ALSO A
FINE BASED ON THE VALUE OF THE SUBSTANCE SMUGGLED.

(B) LAW NO 64-47 OF NOVEMBER 3, 1964 PROVIDES AS A
PENALTY FOR NARCOTICS CHARGE FROM ONE TO FIVE YEARS
IN ADDITION TO A FINE RANGING FROM 100 TO 10,000 DINARS
(\$240.00 TO \$24,000.00). THERE IS NO SUSPENDED SENTENCE
OR PROVISION FOR BAIL OR PAROLE. PROVISIONAL LIBERTY
FOR FOREIGN NATIONALS IS NOT ACCORDED.

(C) ELEMENTS OF THE OFFENSE ARE: LAW NO 64-47 OF
NOVEMBER 3, 1964 PROHIBITS THE CULTIVATION OF THE
CANNABIS PLANT AND THE PAND THE PAPAVER SOMMIFERUM AND THE USE
OF THE BY-PRODUCTS FOR NON-MEDICAL USES. IT ALSO
STIPULATES THAT: GROWING, HARVESTING, POSSESSION,
OFFERING, DISTRIBUTION, PURCHASE, BROKERAGE, SALE,
PEDDLING, DELIVERY (EVEN FREE), TRANSPORT, IMPORTATION,
EXPORTATION, CIRCULATION, TRANSFORMATION, USE, AND
CONSUMPTION OF THE CANNABIS PLANT AND ITS BY-PRODUCTS
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IS PROHIBITED AS IS THE GROWING AND HARVESTING OF CANNABIS
AND PAPAVER SOMMIFERUM. INFRINGEMENTS OF ANY OF THESE
ARTICLES IS PUNISHABLE BY IMPRISONMENT FROM ONE TO FIVE
YEARS PLUS A FINE RANGING FROM 100 TO 10,000 DINARS.

(D) YES. ONE TO FIVE YEARS IMPRISONMENT PLUS A FINE
OF FROM 100 TO 10,000 DINARS.

(3) CULTIVATION, PRODUCTION, PROCESSING:

(A)(I) YES. SEE ANSWER (2)(C).

(II) SEE ANSWER (2) (C).

(III) SEE ANSWER (2) (C).

(B) ILLEGAL TO CULTIVATE, SEE ANSWER (2)(C). EXCEPTION
IS THE CULTURE OF A CERTAIN VARIETY OF HEMP USED FOR
TEXTILE PURPOSES (CHANVRE TEXTILE) WHICH MAY BE ALLOWED
BY AUTHORITY OF THE DIRECTOR OF FINANCE.

(C) PENALTIES ARE DESCRIBED IN ANSWER (2)(C).

(4) FINANCIAL:

(A) YES. SEE ANSWER (2) (C).

(B) YES. ONE MAY IMPORT AN UNLIMITED AMOUNT OF HARD CURRENCY INTO TUNISIA, BUT ONCE THE FOREIGN CURRENCY IS CHANGED INTO TUNISIAN DINARS, THE PERSON MAY ONLY CHANGE BACK 30 PCT OF WHAT HE HAD CASHED. CHANGED BACK AMOUNT MAY NOT EXCEED 100 DINARS PER PERSON. THE TRAVELER MUST RETAIN ALL CURRENCY EXCHANGE RECEIPTS, AS THESE ARE NECESSARY PROOF OF LEGAL TRANSACTIONS. A FOREIGN NATIONAL RESIDING IN TUNISIA MAY OPEN A BANK ACCOUNT THAT MAY BE OPERATED IN BOTH HARD AND LOCAL CURRENCY. IN COMPLIANCE
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WITH AN AGREEMENT BETWEEN THE TUNISIAN CENTRAL BANK AND THE U.S. GOVERNMENT, AMERICAN TRAVELERS MAY CASH THEIR PERSONAL CHECKS INTO DINARS DRAWN ON THEIR BANK IN THE U.S. THESE DINARS ARE NOT RECONVERTIBLE AND MAY NOT BE USED TO PAY FOR ONWARD TRAVEL.

(5) CRIMINAL PROCEDURE:

(A) UNDER TUNISIAN LAW, A DETAINEE MAY BE HELD INCOMMUNICADO DURING THE POLICE INVESTIGATION WITHOUT THE RIGHT TO COUNSEL AND WITHOUT THE FORMAL FILING OF CHARGES AGAINST HIM. THE POLICE INVESTIGATION NORMALLY LASTS TWO TO SIX WEEKS, AFTER WHICH THE DETAINEE IS TRANSFERRED FROM THE CENTRAL POLICE DETENTION FACILITY TO THE CIVIL PRISON. AT THE PRISON, HE LEAVES POLICE JURISDICTION AND COMES UNDER THE JURISDICTION OF THE JUGE D'INSTRUCTION (MAGISTRATE AND INVESTIGATING JUDGE). THIS JUDGE THEN ADVISES THE

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DETAINEE OF HIS RIGHT TO COUNSEL AND DETAINEE WOULD BE PERMITTED TO DESIGNATE AN ATTORNEY. AN ATTORNEY MAY BE APPOINTED PRIOR TO REACHING THIS STAGE OF THE PROCESS BUT HE WOULD HAVE NO COMMUNICATION WITH THE PRISONER. CONSULAR ACCESS IS PERMITTED ANYTIME UPON THE CONSUL'S REQUEST. EMBASSY IS USUALLY NOTIFIED OF THE ARREST OF AN AMCIT WITHOUT DELAY.

(B) ONE TO THREE MONTHS.

(C) ONE TO THREE MONTHS.

(I), (II), AND (III): DEPENDS ON THE COURT'S SCHEDULE. IMPORTANT CONSIDERATIONS ARE NUMBER OF CASES ON COURT CALENDAR AND FACATION RECESS SCHEDULED FOR IMPORTANT HOLIDAYS AND FOR SUMMER MONTHS. USUALLY FOR (5)(C)(I) ONE TO FOUR MONTHS. FOR (5)(C)(II), ONE MONTH. FOR (5)(C)(III), APPEAL PROCESS TWO TO FIVE MONTHS. (D) NO. INDIGENT DETAINEES ON DRUG CHARGES COME UNDER THE JURISDICTION OF A CORRECTIONAL COURT (AS OPPOSED TO A CRIMINAL COURT) AS A PETTY OFFENDER (SEE TUNIS 4787, JULY 8, 1977) AND A PUBLIC DEFENDER IS NOT PROVIDED

THERE ARE COMPETENT LAWYERS LISTED IN EMBASSY'S CURRENT UNCLASSIFIED

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LIST OF LAWYERS. NORMAL FEE \$1,000 TO \$3,000.00.

(E) NM. NOT FOR FOREIGN NATIONALS, BUT THERE EXISTS A REMOTE POSSIBILITY OF A PRESIDENTIAL PARDON FOR FOREIGNERS.

(F) NO. BUT THE EMBASSY BELIEVES THAT IF THE OFFENSE IS SLIGHT OR OBVIOUSLY COMMITTED CTD RAUNG PERSON OF GOOD REPUTATION AND FAMILY BACKGROUND (IE NOT A "CRIMINAL TYPE"), THEY MAY WELL BE EXPELLED OR TURNED OVER TO THE CUSTODY OF THE CONSUL FOR EXPULSION.
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